

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.08.2018

CORAM :

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.21490 of 2018

A.Sridevi

.. Petitioner

Vs.

1. The Sub Registrar,
Office of the Sub Registrar,
Sriperumbudur,
Kancheepuram District.
2. The Inspector General of Registration,
Santhome High Road,
Raja Annamalaipuram,
Chennai-600 028.

.. Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the first respondent herein to register the cancellation document dated 20.01.2017 presented by the petitioner herein cancelling the Sale Deed bearing Document No.11076 of 2014 dated 10.10.2014 registered in the books of the Sub Registrar's Office, Sriperumbudur Taluk, Kancheepuram District, in respect of the property situate at Old No.157, New No.40, Survey No.101, measuring an extent of 2.23 cents in Ponthur Village, Sriperumbudur Taluk, Kancheepuram District.

For Petitioner : Mr.T.T.Ravichandran

For Respondents : Mr.T.M.Pappiah,
Special Government Pleader

O R D E R

Seeking a direction to the first respondent to register the cancellation document dated 20.01.2017 presented by her cancelling the Sale Deed bearing Document No.11076 of 2014 dated 10.10.2014 registered in the books of the Sub Registrar's Office, Sriperumbudur Taluk, Kancheepuram District, in respect of the property situate at Old No.157, New No.40, Survey No.101,

measuring an extent of 2.23 cents in Ponthur Village, Sriperumbudur Taluk, Kancheepuram District, the petitioner is before this Court with this writ petition.

2. The case of the petitioner, in a nutshell, would run thus :

(i) The petitioner's husband Mr.L.S.Abinesha Babu entered into an agreement to purchase the subject property from Mrs.S.Narayani for a sum of Rs.22,30,000/- and paid an advance amount of Rs.2,00,000/- by way of cheque and also paid the remaining amount on various dates. Since the vendor failed to execute the sale deed, he filed O.S.No.18 of 2012 on the file of the District Court, Kancheepuram, seeking specific performance. In the suit, a compromise was entered into between the parties and thus, a compromise decree was passed on 05.05.2010.

(ii) Upon filing of E.P.No.27 of 2012 in the suit and filing of the draft sale deed, a sale deed was executed by the learned District Judge, District Court No.II, Kancheepuram, on behalf of the vendor on 10.10.2014, which was duly registered by the District Registrar, on payment of requisite stamp duty and possession was also given to him.

(iii) The husband of the petitioner was done to death on 30.07.2015 by some rivalries and thus, the petitioner and her two daughters became the legal heirs of his estate.

(iv) The petitioner claimed that she came to know that the subject property, which was originally belonged to one Vedagiri and Rathnam, was given in gift in the year 1934 itself to Selva Vinayakar Swamy, Valli Deivanai Sametha Subramania Swamy Sannithi by way of registered document, wherein, it is stated that the said property cannot be alienated or encumbered. It is pertinent to mention that the vendor of the petitioner's husband is one of the descendants of the donors.

(v) In such circumstances, the petitioner wanted to cancel the sale deed standing in the name of her husband. Accordingly, the petitioner and her two daughters, who are the legal heirs of the deceased L.S.Abinesha Babu, along with the vendor presented a cancellation deed before the first respondent on 20.01.2017 seeking to cancel the sale deed dated 10.10.2014. But the first respondent, without assigning any reasons, refused to receive the document. When an application under the Right to Information Act, 2005 was filed through Power Agent seeking the reason for rejection, it was stated that the cancellation has to be done through the Court. Hence, the present writ petition.

3. Learned counsel for the petitioner, on instructions, submits that the petitioner as well as the other legal heirs of the deceased L.S.Abinesha Babu would like to execute the

cancellation deed and the same is only for the purpose of handing over the property to the temple, for which, the subject property belongs to.

4. Heard the learned Special Government Pleader on the submissions of the learned counsel for the petitioner.

5. Realising that the land in question originally belongs to the temple and inadvertently, the sale deed came to be executed in favour of the deceased L.S.Abinesha Babu, who is the husband of the petitioner, the petitioner and her two daughters, who are the legal heirs of the deceased L.S.Abinesha Babu, along with the vendor presented the cancellation deed before the first respondent on 20.01.2017 seeking to cancel the sale deed dated 10.10.2014, which was only for the purpose of handing over the said property to the temple. An affidavit dated 27.08.2018 has been filed by Ms.Narayani, vendor of the property, wherein, it is stated that she has no objection for the cancellation deed and no consideration has been exchanged.

6. At this juncture, it is relevant to refer to a Full Bench decision of this Court in the case of Latif Estate Line India Ltd., V. Hadeeja Ammal, 2011 (2) CTC 1 (FB), wherein, it is held thus :

"58. It can also not be overlooked or ignored that a unilateral cancellation of a Sale Deed by registered instrument at the instance of the vendor only encourages fraud and is against public policy. But there are circumstances where a Deed of Cancellation presented by both the vendor and the purchaser for registration has to be accepted by the Registrar if other mandatory requirements are complied with. . . ."

7. In such view of the matter, the first respondent is directed to consider the claim of the petitioner and act in accordance with law. The said exercise shall be completed by the first respondent within a period of two weeks from the date of receipt of a copy of this order.

8. With the above direction, this writ petition is disposed of. There will be no order as to costs.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Sub Registrar,
Office of the Sub Registrar,
Sriperumbudur,
Kancheepuram District.
2. The Inspector General of Registration,
Santhome High Road,
Raja Annamalaipuram,
Chennai-600 028.

+2cc to Mr.T.T.Ravichandran, Advocate, S.R.No.59504

+1cc to the Government Pleader, S.R.No.60606

W.P.No.21490 of 2018

GSP(12/09/2018)



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